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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,374	01/14/2004	Vito James Carlucci	884.0217USU	3611

7590 09/15/2004

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EXAMINER

GRAVINI, STEPHEN MICHAEL

ART UNIT PAPER NUMBER

3749

DATE MAILED: 09/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/757,374	Applicant(s) CARLUCCI ET AL.	
	Examiner Stephen Gravini	Art Unit 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20040816</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement filed January 14, 2004 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because it does not contain a form PTO-1449 or list in which the Office may acknowledge applicants considered references. Since no response was made to a request to supply a list of references, an Office action will be issued without acknowledging applicants references. The applicants submission letter has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing elements will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, 9-13, 15-16, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Slingo (US 6,378, 225). Slingo is considered to disclose the claimed invention comprising:

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a body **10** having a handle portion **30** and a head portion **20**, said head portion having a blower **40** for generating airflow, a primary heater **60** for providing heat to said airflow, and a secondary heater **100** selectively providing radiant energy said airflow as desired; or alternatively

a body **10** having at least two portions, a first portion **20** and a second portion **30**, said first portion accommodating at least a primary heating source **60** and a secondary heating source **100**, said second portion accommodating a control interface **32** for allowing an operator to control said primary heating source and/or said secondary heating source, or the heating effect provided by said primary heating source and/or said secondary heating source, individually and/or together as desired (please see column 2 lines 32-38 for the individual and/or together feature). Slingo is also considered to disclose the claimed control interface enables an operator to at least activate and/or deactivate said secondary heater (column 2 lines 32-38), primary convection heater (column 1 line 45), secondary infrared heater (column 2 line 47), secondary PTC ceramic heater (column 2 line 39), head a first end with an portion has air ingress and a second end with an air egress with said secondary heater centrally disposed at said second end as shown in figure 1 and disclosed at column 2 line 43, a first portion blower for generating airflow (column 2 line 22), and wherein said blower, or the effect provided thereby to said airflow, is controlled via said control interface (column 2 lines 32-38).

Claim Rejections - 35 USC § 103

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 8, 14, and 19-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slingo in view of Polaert (US 5,790,749). Slingo is considered to disclose the claimed invention, as discussed above under the anticipatory rejection, except for the claimed self-regulating secondary heater with separately adjustable blower airflow effects or heating source effects. Polaert is considered to disclose a self-regulating secondary heater with separately adjustable blower airflow effects or heating source effects at column 3 line 45 through column 4 line 6. It would have been obvious to one skilled in the art to combine the teachings of Slingo with the self-regulating secondary heater with separately adjustable blower airflow effects or heating source effects, considered to be disclosed in Polaert for the purpose of allowing a more flexible heating temperature and airflow volume to prevent hair damage in hair drying equipment.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Slingo in view of Pollack (US 2002/0006275). Slingo is considered to disclose the claimed invention, as discussed above under the anticipatory rejection, except for the claimed feature wherein a primary heating source initially heats said airflow, and wherein a secondary heating source selectively provides radiant energy thereto. Pollack is considered to disclose a feature wherein a primary heating source initially heats said airflow, and wherein a secondary heating source selectively provides radiant energy thereto in paragraph 27 and paragraph 31. It would have been obvious to one skilled in the art to combine the teachings of Slingo with the feature wherein a primary heating source initially heats said airflow, and wherein a secondary heating source selectively provides radiant energy thereto, considered to be disclosed in Pollack for the purpose of allowing a more flexible heating temperature and airflow volume to prevent hair damage in hair drying equipment.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. References A and B, cited in this action, is considered to disclose a plural heating source device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gravini whose telephone number is 703 308 7570. The examiner can normally be reached on normal weekday business hours (east coast time).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira S. Lazarus can be reached on 703 308 1935. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

smg

September 9, 2004

Stephen W. Davis